

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**UNITED STATES OF AMERICA
PLAINTIFF,**

V.

**VICTOR RICARDO CAMACHO
DEFENDANT**

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CASE NO. 4:20-CR-00026

**DEFENDANT’S SENTENCING MEMORANDUM AND
MOTION FOR DOWNWARD VARIANCE**

NOW COMES Defendant, Mr. Camacho, and respectfully file his Sentencing Memorandum and Motion for Downward Variance and shows unto the Court as follows:

I. BACKGROUND

This case arises from an arrest that occurred on December 5, 2019, on a search of his vehicle which led to the discovery of a Barret, Model M82A1 .50 caliber, semi-automatic rifle, 100 rounds of .50 caliber ammunition, and a magazine from the trunk. Mr. Camacho entered a plea of guilty to Counts 1SS & 2SS of the indictment, which charged him with: Aiding and abetting false statements on ATF Form 4473, in violation of 18 U.S.C. § 924(a)(1)(A) and § 2. Not more than 5 years imprisonment, not more than a \$250,000 fine, not more than 3 years supervised release, and a \$100 special assessment. Class D Felony. Mr. Camacho also pled to Count 3SS of the indictment which charged him with: Possession of firearm with an obliterated serial number, in violation of 18 U.S.C. §§ 922(k) and 924(a)(1)(B). Not more than 5 years imprisonment, not more than a \$250,000 fine, not more than 3 years supervised release, and a \$100 special assessment. Class D Felony. The advisory guideline range recommended by the PSR is 57 to 71 months, based on an offense level of 25 and a criminal history score of 0. The

government's recommendation is 57 months.

Mr. Camacho understands that he has committed a serious crime. He takes complete responsibility for his conduct. The Defendant has objected to the amount of upward adjustment made for relevant conduct, and accordingly requests a downward variance to an offense level of 20, resulting in an advisory guideline range of 33-41 months.

II. ARGUMENT

As noted in the Supreme Court's decision in *United States v. Booker*, 543 U.S. 220 (2005), courts are to consider not only the recommended guideline range, but also the sentencing factors under 18 U.S.C. § 3553(a), in determining the appropriate sentence. The overriding principle and basic mandate of Section 3553(a) requires district courts to impose a sentence "sufficient, but not greater than necessary," to comply with the four purposes of sentencing set forth in Section 3553(a)(2): retribution (to reflect the seriousness of the offense, to promote respect for the law, and to provide "just punishment"), deterrence, incapacitation ("to protect the public from further crimes"), and rehabilitation ("to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner"). The sufficient-but-not-greater-than-necessary requirement is often referred to as the "parsimony provision." This requirement is not just another factor to be considered along with the others set forth in Section 3553(a) — it sets an independent limit on the sentence.

In determining the sentence sufficient but not greater than necessary to comply with the § 3553(a)(2) purposes of sentencing, the court must consider several factors listed in § 3553(a). These are: (1) the nature and circumstances of the offense and the history and characteristics of the defendant; (2) the kinds of sentence available; (3) the guidelines and policy statements issued by the Sentencing Commission, including the advisory guideline range; (4) the need to avoid

unwarranted sentencing disparity; and (5) the need to provide restitution where applicable. 18 U.S.C. § 3553(a)(3), (a)(5)-(7). Neither the statute itself nor *United States v. Booker* suggests that any one of these factors is to be given greater weight than any other factor.

III. FACTORS

Mr. Camacho's entire background including his criminal history, age, education, employment history, family ties reveals Mr. Camacho to be a good son, a loving father to his child, and working member of his community.

A. Lack of Prior Criminal History

The Presentence Report confirms that Defendant is a young 24 years old with no prior criminal history, and steadily employed since leaving high school. Defendant submits that a sentence of 57 months, even taking into account the gravity of the offense, is not reasonable given Defendant's age and lack of criminal history.

B. Strong family connections

Mr. Camacho's family and friends respectfully request that this court consider their pleas for sentencing at the requested lower offense level. Mr. Camacho's circle of family and friends will attest to his character. Mr. Camacho is held in high esteem by his family and peers. Letters of support from the following are attached hereto:

- Exhibit 1: Statement from Juanita Cerda – Mom
- Exhibit 2: Statement from Jesus I. Camacho – Brother
- Exhibit 3: Statement from Tina Benton – Coworker
- Exhibit 4: Statement from Dan Benton – Coworker
- Exhibit 5: Statement from Blank Martin – Previous Employer
- Exhibit 6: Statement from Juan Tapia Jr. – Boxing Coach

Exhibit 7: Statement from Terry Shannon – Teacher

C. Efforts to rehabilitate.

Furthermore, Defendant has already taken efforts toward rehabilitation while incarcerated. Defendant attaches as Exhibit 8, the following certificates of rehabilitative courses he has completed thus far:

Certificate of Completion for Successfully Completing- Presentation Skills

Certificate of Completion for Successfully Completing- Skill Based Education

Certificate of Completion for Successfully Completing- Skillsoft: The Art of Staying Focused

Certificate of Completion for Successfully Completing- Skillsoft: Become a Great Listener

Certificate of Completion for Successfully Completing- Skillsoft: Building your Presentation

Certificate of Completion for Successfully Completing- Skillsoft: Choosing and Using the Best Solution

Certificate of Completion for Successfully Completing- Skillsoft: Cultivating Relationships with Your Peers

Certificate of Completion for Successfully Completing- Skillsoft: Difficult People: Why They Act That Way and How to Deal with Them

Certificate of Completion for Successfully Completing- Skillsoft: Ensuring Successful Presentation Delivery

Certificate of Completion for Successfully Completing- Skillsoft: Establishing Self-confidence for Life

Certificate of Completion for Successfully Completing- Skillsoft: Interacting with Customers

Certificate of Completion for Successfully Completing- Skillsoft: Making and Carrying Out Tough Decisions

Certificate of Completion for Successfully Completing- Skillsoft: Overcoming Your Own Unconscious Biases

Certificate of Completion for Successfully Completing- Skillsoft: Planning an Effective Presentation

Certificate of Completion for Successfully Completing- Skillsoft: Solving Problems: Generating and Evaluating Alternatives

Certificate of Completion for Successfully Completing- Skillsoft: Take a Deep Breath and Manage Your Stress

Certificate of Completion for Successfully Completing- Skillsoft: Uncovering and Utilizing Your Talents and Skills

Certificate of Completion for Successfully Completing- Substance Abuse Education

Certificate of Completion for Successfully Completing- Time Management

Certificate of Completion for Successfully Completing- Anger Management

Peace Education Program This Certificate Acknowledges that, Victor Camacho, Participated in The Peace Education Program

Certificate of Completion for Successfully Completing- My SWOT – How to use your knowledge

Certificate of Completion for Successfully Completing- Job Readiness

Certificate of Completion for Successfully Completing- Identification Package

Certificate of Completion for Successfully Completing- Healthy Coping Skills

Certificate of Completion for Successfully Completing- Health Education

Certificate of Completion for Successfully Completing- Financial Literacy

Certificate of Completion for Successfully Completing- Family and Community Reunification

Certificate of Completion for Successfully Completing- Expectations and Outcomes

Certificate of Completion for Successfully Completing- Exercising

Certificate of Completion for Successfully Completing- Entrepreneurship

Certificate of Completion for Successfully Completing- Contemporary Technology Skills – v2

Certificate of Completion for Successfully Completing- Conflict Resolution

Certificate of Completion for Successfully Completing- Career Resources

Certificate of Completion for Successfully Completing- Behavior Change

Certificate of Completion for Successfully Completing- Basic Education

D. A Sentence of 33 Months Would Promote Respect for the Law, Provide a Just Punishment and Afford Adequate Deterrence.

Section 3553(a) also provides that courts should strive to impose a sentence that reflects the seriousness of the offense, promotes respect for the law, provides a just punishment, affords adequate deterrence, protects the public, and allows for rehabilitation. A sentence of 33 months would be more than sufficient to accomplish those goals in this case.

In addition, given that Mr. Camacho has never before having been incarcerated, a sentence of 33 months would serve as a significant punishment while at the same time taking into account Mr. Camacho obvious need for rehabilitation. He remains a young man who still has the ability to turn his life into a productive one. Considering all of these factors, Mr. Camacho respectfully requests the Court to impose a total sentence of 33 months. Such a sentence would take into account the gravity of Mr. Camacho's conduct and would amount to the most serious sentence that Mr. Camacho has ever received. In sum, such a sentence would more than adequately serve the needs outlined in § 3553(a)(2), and thereby satisfy the "parsimony provision" of that section.

WHEREFORE, the Defendant Camacho prays that this Honorable Court grant his motion for a downward variance, and that he be sentenced to 33 months.

Respectfully submitted,

LAW OFFICE OF EDDIE LUCIO

/s/ Eddie Lucio

Eddie Lucio

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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of July 2022, a true and correct copy of the foregoing Defendant's Sentencing Memorandum and Motion For Downward Variance was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to all parties.

/s/ Eddie Lucio
Eddie Lucio.